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Harrington & Smith, LLP

Fax

| | |
|---|---------------------------|
| To: Barry Taylor | From: Lynn Maroldi |
| Fax: (571) 273-7509 | Pages: 10 |
| Phone: (571) 272-7509 | Date: 5/23/2005 |
| Re: Office Action/Cover Page Mixup | CC: |

☐ Urgent ☒ For Review ☐ Please Comment ☒ Please Reply ☐ Please Recycle

Dear Examiner Taylor,

Pursuant to our telephone conversation, attached is the copy of the cover page for US Application No. 10/090888, which is one of our cases, along with a copy of an Office Action Summary for US Application No. 10/638652, which is not one of our cases. These documents were received together (in one envelope) in Saturday's mail.

Please let me know, at your earliest convenience, how you wish this handled.

Thank you.

Lynn Maroldi

Per your 10⁴⁰ am phone call on 5/23,
I am mailing this OA back to you.
Thank you for your assistance

Lynn

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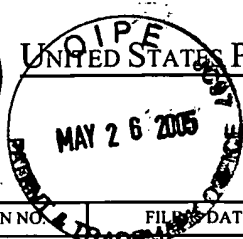
* * * TRANSMISSION RESULT REPORT(IMMEDIATE TX) (MAY. 23. 2005 9:19AM) * * *

FAX HEADER: HARRINGTON & SMITH

| DATE | TIME | ADDRESS | MODE | TIME | PAGE | RESULT | PERSONAL NAME | FILE |
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| MAY. 23. | 9:16AM | | USPTO | G3ES | 2'38" | P. 10 OK | | 609 |

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/090,888 | 03/04/2002 | David F. Bantz | YOR920010527US1 | 6489 |

29683 7590 05/18/2005
HARRINGTON & SMITH, LLP
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EXAMINER

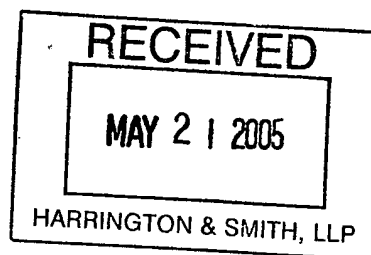
NI, SUHAN

ART UNIT PAPER NUMBER

2643

DATE MAILED: 05/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



US ACTION _____
DUE DATE _____
PAPER DATED _____
OA _____ FINAL _____
MSG PT _____ DWG _____
APPEAL _____ ISSUE FEE _____
OTHER _____



Office Action Summary

Application No.

10/638,652

Applicant(s)

HIRSCHMAN ET AL.

Examiner

Barry W Taylor

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— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

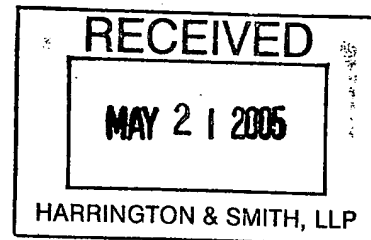
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

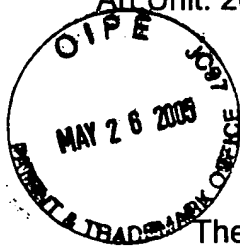
- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

1. Claims 1, 6 and 8-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mashinsky (6,542,588) in view of Enzmann et al (6,683,945 hereinafter Enzmann).

Regarding claims 1 and 12. Mashinsky teaches a method of reconciling prices of a buyer and a seller of telecommunications services (see abstract), the method comprising:

Receiving a first breakout of prices associated with the selling communications services (col. 2 line 28 – col. 3 line 29, col. 5 lines 39-43, col. 6 lines 29-65, col. 7 lines

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27-32, col. 9 lines 11-57, col. 10 lines 35-57, col. 11 line 6 – col. 12 line 67, col. 13 lines 3-28, col. 13 line 48 – col. 14 line 2).

Mashinsky does not explicitly teach converting the first breakout to a second break out, said second breakout associated with buying telecommunications services, and consummating a transaction between a buyer and a seller utilizing said second breakout.

Enzmann teaches a routing data based on comparative income values (abstract). Enzmann uses a revenue value (i.e. breakout) for each path (see second row in figure 2 wherein breakout values listed). Enzmann improves on prior arts use of static routing table (i.e. Mashinsky column 2 lines 28-36) by deriving a comparative value (see forth row figure 2) which is a function of both the breakout (i.e. second row figure 2) and the likelihood that call will be successfully completed (see third row figure 2, col. 3 line 40 – col. 5 line 40) thereby providing a cost effective method of routing calls/data between a first location and second location using current real time information which generates maximum revenue or that incurs the least cost to the routing entity (col. 2 lines 4-8).

It would have been obvious for any one of ordinary skill in the art at the time of invention to utilize the teachings of Enzmann into the teachings of Mashinsky in order to provide maximum revenue by using real time data as taught by Enzmann (col. 2 lines 4-8).

Regarding claim 6. Mashinsky teaches a system for completing internet telephone calls (col. 3 lines 5-29) comprising a computer (see server 56 figure 1) for allowing originating entities to buy time from terminating entities, and software (abstract,

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col. 2 line 28 – col. 3 line 29, col. 5 lines 39-43, col. 6 lines 29-65, col. 7 lines 27-32, col. 9 lines 11-57, col. 10 lines 35-57, col. 11 line 6 – col. 12 line 67, col. 13 lines 3-28, col. 13 line 48 – col. 14 line 2).

Mashinsky does not explicitly teach converting between a code breakout utilized by the originating entity and a breakout utilized by the terminating entity.

Enzmann teaches a routing data based on comparative income values (abstract). Enzmann uses a revenue value (i.e. breakout) for each path (see second row in figure 2 wherein breakout values listed). Enzmann improves on prior arts use of static routing table (i.e. Mashinsky column 2 lines 28-36) by deriving a comparative value (see forth row figure 2) which is a function of both the breakout (i.e. second row figure 2) and the likelihood that call will be successfully completed (see third row figure 2, col. 3 line 40 – col. 5 line 40) thereby providing a cost effective method of routing calls/data between a first location and second location using current real time information which generates maximum revenue or that incurs the least cost to the routing entity (col. 2 lines 4-8).

It would have been obvious for any one of ordinary skill in the art at the time of invention to utilize the teachings of Enzmann into the teachings of Mashinsky in order to provide maximum revenue by using real time data as taught by Enzmann (col. 2 lines 4-8).

Regarding claims 8-9. Mashinsky teaches server (46 figure 1) used as clearinghouse between buyer and seller (col. 9 lines 11-65, col. 11 lines 6-30, col. 12 lines 20-67, col. 13 lines 48-67).

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Regarding claims 10-11. Enzmann teaches the codes (see first row figure 2) maybe any location, including a location within the LATA, external to LATA but relatively local or external to LATA and not relatively local, e.g. (col. 1 lines 52-55, col. 3 lines 18-49, col. 4 lines 55-65, col. 5 lines 8-40).

2. Claims 2 and 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mashinsky (6,542,588) in view of Enzmann et al (6,683,945 hereinafter Enzmann) further in view of Gell et al (5,802,502 hereinafter Gell).

Regarding claims 2 and 13-14. Mashinsky in view of Enzmann fail to teach converting between different currencies.

Gell teaches a system for selective service provider based on price and other factors such as quality of service (abstract). Gell discloses that different currency conversion rates are taken into account when selecting lowest adjusted price (col. 6 lines 17-25, col. 17 lines 50-55) thereby allowing for a plurality of suppliers offer services thereby reducing cost.

It would have been obvious for any one of ordinary skill in the art at the time of invention to utilize the teachings of Gell into the teachings of Mashinsky in view of Enzmann in order to reduce cost by allowing more than one carrier to offer services.

Regarding claims 15-17. Mashinsky teaches different formats may be used (see col. 2 line 62 – col. 3 line 10).

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3. Claims 3-5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mashinsky (6,542,588) in view of Enzmann et al (6,683,945 hereinafter Enzmann) further in view of Ng et al (6,473,499 hereinafter Ng).

Regarding claims 3 and 7. Mashinsky in view of Enzmann fail to teach calculating a weighted average.

Ng teaches a system for determining phone rates (abstract). Ng teaches using weighted average (col. 6 line 35 – col. 7 line 47, col. 11 line 24 – coll. 12 line 49) used to dynamically determine phone rates for individual customers (col. 1 lines 14-17).

It would have been obvious for any one of ordinary skill in the art at the time of invention to utilize the teachings of Ng into the teachings of Mashinsky in view of Enzmann in order to dynamically determine phone rates for different destinations as taught by Ng (col. 1 lines 14-17, col. 12 lines 5-6).

Regarding claim 4. Mashinsky teaches using past information (col. 9 lines 11-26).

Regarding claim 5. Mashinsky teaches using future estimates (col. 10 line 36).

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barry W. Taylor, telephone number (571) 272-7509, who is available Monday-Friday, 8am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz, can be reached at (571) 272-7499. The facsimile phone number for this group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group 2600 receptionist whose telephone number is (571) 272-2600, the 2600 Customer Service telephone number is (571) 272-2600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For

Application/Control Number: 10/638,652

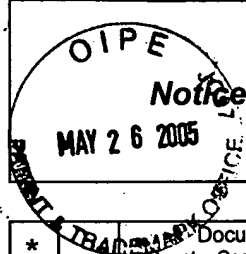
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more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Barry W. Taylor", with a long horizontal line extending to the right.

Barry W. Taylor
Patent Examiner
Technology Center 2600
Art Unit 2643

| | | | |
|---|---------------------------------------|---|-------------|
|  Notice of References Cited | Application/Control No. 10/638,652 | Applicant(s)/Patent Under Reexamination HIRSCHMAN ET AL. | |
| | Examiner Barry W Taylor | Art Unit 2643 | Page 1 of 1 |

U.S. PATENT DOCUMENTS

| * | | Document Number Country Code-Number-Kind Code | Date MM-YYYY | Name | Classification |
|---|---|--|-----------------|----------------------|----------------|
| * | A | US-5,802,502 | 09-1998 | Gell et al. | 705/37 |
| * | B | US-6,473,499 B1 | 10-2002 | Ng et al. | 379/121.02 |
| * | C | US-6,542,588 B1 | 04-2003 | Mashinsky, Alexander | 379/114.02 |
| * | D | US-6,683,945 B1 | 01-2004 | Enzmann et al. | 379/221.01 |
| | E | US- | | | |
| | F | US- | | | |
| | G | US- | | | |
| | H | US- | | | |
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